

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Gilbert Green,) C.A. No.:
)
Plaintiff,)
)
vs.) **C O M P L A I N T**
)
GE Pension Plan,)
)
Defendant.)

The Plaintiff, complaining of the Defendant herein, would show unto this Honorable Court as follows:

I.

Plaintiff is a citizen and resident of Belton, South Carolina.

II.

Defendant is a self-funded benefits plan organized and existing pursuant to ERISA 29 U.S.C. §1132(d)

III.

In this matter, Plaintiff seeks disability pension benefits under an ERISA plan pursuant to 29 U.S.C.S. § 1132(a)(1)(B) and that this court has jurisdiction to hear this matter based upon a federal question.

IV.

Until June, 2009, Plaintiff was employed with General Electric Company and as an employee of General Electric Company, Plaintiff was provided with disability pension benefits via a plan which was fully funded by General Electric Company (hereinafter “GE”).

V.

Plaintiff became disabled because of certain problems from which he suffered, Plaintiff was forced to cease working and he filed a claim for disability pension benefits.

VI.

Defendant denied Plaintiff's claim. Plaintiff appealed the denial and fully exhausted administrative remedies, but Defendant has failed and refused to provide additional benefits.

VII.

GE is the funder of the plan, and is the sole entity responsible for determining whether claims such as the Plaintiff's should be paid. Accordingly, GE is the fiduciary of the plan for the purpose of deciding whether benefits are payable. As the funder and fiduciary of the plan in which Plaintiff participated GE made its claim decision while operating under a conflict of interest which significantly influenced GE to deny Plaintiff's claim. GE's decision was not based upon substantial evidence or the result of a principled and reasoned decision-making process. Instead, GE's decision was reached by ignoring relevant evidence pertaining to Plaintiff's claim and, instead, relying upon biased information and flawed expert opinions. Accordingly, GE operated under a conflict of interest which improperly and significantly influenced its claim decision.

FOR A FIRST CAUSE OF ACTION

VIII.

Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

IX.

Plaintiff respectfully requests that this Court consider the administrative record compiled in this case and any other evidence relevant to any factors discussed by *Champion v. Black & Decker*, 550 F.3d 353 (4th Cir. 2008), if applicable and depending on the standard of review, and declare, pursuant to 29 U.S.C.S. §1132(a)(1)(B), that Plaintiff is entitled to the benefits which he seeks under the terms of the plan. In the event that the court reviews the record and/or other relevant information and determines that GE abused its discretion or that its decision is not supported by the record, but that the substance of the record might not support Plaintiff's entitlement to benefits then Plaintiff respectfully asks that, in the event of such a finding, that the court exercise its inherent power to remand Plaintiff's claim for a "full and fair" review by the appropriate claim fiduciary. Should the court award Plaintiff any part of the relief requested, Plaintiff additionally prays that the Court award him attorney's fees and costs pursuant to 29 U.S.C.S. §1132(g).

WHEREFORE, having fully stated his complaint against the Defendant, Plaintiff prays for a declaration of entitlement to the disability pension benefits he seeks pursuant to 29 U.S.C.S. §1132(a)(1)(B), attorney's fees and costs pursuant to 29 U.S.C.S. §1132(g), and such other and further relief as this Court deems just and proper, including pre-judgment interest on all benefits due from the point at which benefits were payable through the time of judgment.

s/ Robert E. Hoskins
Robert E. Hoskins, Esq.
Federal Bar #: 5144
FOSTER LAW FIRM, L.L.C.
PO Box 2123
Greenville, SC 29602
(864) 242-6200

(864) 233-0290 (facsimile)
E-mail: rhoskins@erisaexperience.com
Attorneys for Plaintiff

Date: September 3, 2010